

## CLAIM OF HANNAH M. OGAWA

[No. 146-35-24137-A. Decided October 24, 1951]

*Interlocutory Ruling*

The Evacuation Claims Act of July 2, 1948, provides by Section 2 (a):

The Attorney General shall receive claims for a period of eighteen months from the date of enactment of this Act. All claims not presented within that time shall be forever barred.

The Attorney General has construed this provision as giving him jurisdiction to consider any claim received before midnight of Tuesday, January 3, 1950.

The precise question here presented, therefore, is whether the receipt of the claim by the United States Attorney at Chicago within that period constitutes compliance with the jurisdictional requirements of the Statute. Clearly it does. It will be observed that the Act does not require that the claim shall be received by the Attorney General at Washington, but merely by the Attorney General. The question raised, therefore, is whether a United States Attorney may properly act for the Attorney General in such circumstances as the present.

Since the Japanese Evacuation Claims Act of July 2, 1948, has been in force, the relations of the Attorney General and the United States Attorneys have been governed by the Act of Congress of June 25, 1948, "To revise, codify, and enact into law title 28 of the United States Code entitled 'Judicial Code and Judiciary'" (80th Cong., 2d sess., P. L. 773, 62 Stat. 869). The duties of a United States Attorney within his district are defined in Section 507 (a) of that Act and Section 507 (b) thereof provides as follows:

(b) The Attorney General shall have supervision over all litigation to which the United States or any agency thereof is a party and shall direct all United States attorneys, assistant United States Attorneys, and attorneys appointed under section 503 of this title, in the discharge of their respective duties.

The above-quoted provision confers substantially the same powers upon the Attorney General as he previously had under United States Code, Title 5, Section 317, based on R. S. Section 362. By this provision the Attorney General was to "exercise general superintendence and direction over the attorneys \* \* \* of all the districts in the United States and the territories as to the manner of discharging their respective duties," and the district attorneys were required to report to the Attorney General on their official proceedings as the Attorney General might direct. The authority of the Attorney General has been sustained by the Supreme Court on various occasions. *U. S. v. San Jacinto Tin Co.* (1888), 125 U. S. 273, 278-280. In *U. S. v. Smith* (1895), 158 U. S. 346, that Court said (at p. 355):

It can hardly be supposed that Congress could have intended that the Attorney General should not be at liberty to call upon the official representatives of the United States in each district to defend, as a part of his official duty, the interests of the Government in any suit in which it was interested.

\* \* \* The power of the Attorney General to direct the United States Attorney to receive claims under the Act is clear and the receipt of the Claims by the United States Attorney within the statutory period, as agent of the Attorney General, was proper. His acts in receiving the several claims in question were, therefore, the acts of the Attorney General. \* \* \*